



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,045	10/31/2000	Louis J. Morsberger	MFSI-001/01US	8530
22903	7590	02/06/2006	EXAMINER	
COOLEY GODWARD LLP ATTN: PATENT GROUP 11951 FREEDOM DRIVE, SUITE 1700 ONE FREEDOM SQUARE- RESTON TOWN CENTER RESTON, VA 20190-5061			ROBINSON BOYCE, AKIBA K	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/702,045

Applicant(s)

MORSBERGER, LOUIS J.

Examiner

Akiba K. Robinson-Boyce

Art Unit

3639

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Status of Claims***

1. Due to communications filed , the following is a non-final office action. Claim 15 has been amended. Claims 1-26 are pending in this application and have been examined on the merits. The previous rejection has been withdrawn, and the following reflects the claims as amended. Prosecution for this case has been re-opened. Claims 1-26 are rejected as follows.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-10 and 12-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (US 6,711,581).

As per claims 1, 25, 26, Rebane discloses:

Receive transaction information related to a transaction, the transaction information including consumer information and merchant information/ Receive transaction/monetary transaction information related to a transaction between a consumer and a merchant, the transaction/monetary transaction information including consumer information about the consumer participant in the transaction/to the monetary

Art Unit: 3639

transaction, and merchant information/the monetary transaction further including merchant information about the/a merchant participant in/to the transaction, (Col. 8, lines 33-42, shows usage of data gathered from merchants and consumers for e-commerce transactions, w col. 9, lines 13-15, shows online retail transactions between consumers and merchants for goods or services sold online, which represents the monetary transaction);

compare the consumer information with predetermined consumer information/compare the merchant information with predetermined merchant information, (Col. 25, lines 18-20, calculated values of response rates [which are given by both consumers and merchants since data can be gathered from both merchants and consumers as disclosed in the above limitation] are compared to predetermined high thresholds of response rates).

determine whether to invite the consumer to complete a survey related to the transaction/monetary transaction, (col. 12, lines 37-40, shows that a consumer making an online purchase of goods from a merchant's website may be invited to fill out a consumer satisfaction survey questionnaire following the transaction)

Rebane does not explicitly disclose that the determination is based at least partially on the comparison of the consumer information and the comparison of the merchant information, however, this limitation is obvious with Rebane since in Col. 24, lines 34-60, Rebane shows an example where if response rates fall below a certain threshold, an indication is sent to the merchant or other party to investigate the *correctable* reason, where a reason can be that the survey questionnaire is not being

Art Unit: 3639

presented to purchasing consumers due to technical reasons. Since these reasons are correctable, this indicates that in order to keep the response rates inside of the thresholds, the merchant or other party must make sure that the survey questionnaire that wasn't presented, is presented, thereby ensuring that the customer is invited to participate in the survey and not left out due to technical reasons.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the invitation determination to be based at least partially on the comparison of the consumer information and the comparison of the merchant information with the motivation of inviting a consumer to participate in a survey based on how the customer and/or merchant information relates to certain thresholds.

As per claim 2 Rebane discloses:

wherein the consumer information includes...the predetermined consumer information includes information relating to consumers defined as prospective offerees, (Col. 10, lines 45-50, shows that a survey questionnaire may include fields relating to a consumer's particular demographics, preferences, etc., also col. 30, line 66-col. 31, line 1, shows usage of cookies).

Rebane does not explicitly disclose that consumer information includes a consumer identification code, however, this limitation is obvious since Rebane shows that a customer may be invited to fill out a survey questionnaire through a merchant website via HTML, XML, Java Script, ActiveX, Applet, which in this case, a customer ID is needed in order to route the survey questionnaire to the proper customer who has web browser access.

Art Unit: 3639

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the customer information to include a consumer identification code with the motivation of having the means necessary to identify a consumer for proper survey questionnaire transmission purposes.

As per claim 3, Rebane discloses:

wherein the predetermined merchant information includes information relating to categories of purchases, and wherein determining whether to invite the consumer to complete a survey includes determining whether the transaction corresponds to one of said categories of purchases, and wherein the code representing instructions to cause a processor to determine whether to invite the consumer to complete a survey includes code representing instructions to cause a processor to determine whether the transaction corresponds to one of said categories of purchases, (Col. 8, lines 43-48, shows data can be evaluated according to categories of purchases).

As per claim 4, Rebane discloses:

wherein the code representing instructions to cause a processor to determine whether the transaction corresponds to one of said categories of purchases includes code representing instructions to cause a processor to determine whether there is an unsatisfied quota of survey invitations for the particular type of transaction, (Col. 24, lines 34-60, Rebane shows an example where if response rates fall below a certain threshold, an indication is sent to the merchant or other party to investigate the *correctable* reason, where a reason can be that the survey questionnaire is not being presented to purchasing consumers due to technical reasons).

Art Unit: 3639

As per claim 5, Rebane discloses:

wherein the code representing instructions to cause a processor to determine whether to invite the consumer to complete a survey includes code representing instructions to cause a processor to determine whether the transaction meets predetermined criteria and is a qualifying transaction, (Col. 24, lines 34-60, Rebane shows an example where if response rates fall below a certain threshold, an indication is sent to the merchant or other party to investigate the *correctable* reason, where a reason can be that the survey questionnaire is not being presented to purchasing consumers due to technical reasons).

As per claim 6, Rebane discloses:

transmitting to the consumer an invitation to complete a survey relating to the qualifying transaction, (col. 12, lines 37-40, shows that a consumer making an online purchase of goods from a merchant's website may be invited to fill out a consumer satisfaction survey questionnaire following the transaction);

receiving survey information from the consumer relating to the qualifying transaction, (col. 13, lines-51, shows that after a consumer completes a survey questionnaire, the data is fed to a data capture server and logged into a server log); and

processing the received survey information, (Col. 13, lines 51-63, data in server log is then assigned into predefined fields in a database).

As per claim 7, Rebane discloses:

Art Unit: 3639

wherein the predetermined consumer information is provided by a party to the transaction other than a merchant, (Col. 8, line 64-Col. 9, line 9, intermediary data source).

As per claim 8, Rebane discloses:

offering processed survey information to the merchant, (Col. 16, lines 33-38, presentation server presents data that has been processed and evaluated by the system to a merchant);

and granting access to the processed survey information to the merchant, (Col. 16, lines 40-46, shows presentation depends upon parsing and sorting according to the defined needs/interests of the end-user or merchant).

As per claim 9, Rebane discloses:

wherein the transaction information includes a transaction record, the transaction record being in at least one of an electronic form and a digital form, and the code representing instructions to cause a processor to receive transaction information is configured to receive a set of transaction information regarding several transactions, (Col. 31, lines 13-24, shows that transaction data in terms of the level of sale transactions on a point-of-sale website comes from a database, since this information comes from a database, it is inherent that this data is in record format, and also in electronic form since dealing with a website).

As per claim 10, Rebane discloses:

receiving consumer information from participating consumers, (col. 13, lines 27-37, consumer demographic information, etc.)



Art Unit: 3639

developing historical consumer information for each of the participating consumers, (Col. 5, lines 25-30, using available historical or recently captured data along with an estimated and/or available saturation population function as the basis for an algorithm that defines the growth of the population to a maximum attainable level).

receiving transaction information relating to a transaction, the transaction information including information relating to the consumer in the transaction, (Col. 12, lines 33-36, data that enters data capture may relate to an online transaction);

determining, using the information relating to the consumer in the transaction, whether the consumer in the transaction is a participating consumer, (Col. 3, lines 51-53, shows that traditionally, after a transaction, a consumer must fill out an order confirmation receipt in order to fill out a survey).

Determining...whether to collect survey information from the consumer in the transaction, (col. 12, lines 37-40, shows that a consumer making an online purchase of goods from a merchant's website may be invited to fill out a consumer satisfaction survey questionnaire following the transaction, in this case, since both occur after a transaction).

Rebane does not explicitly disclose that the determination is based on using the historical consumer information, however, this limitation is obvious with Rebane since in Col. 5, lines 25-30, Rebane discloses using available historical or recently captured data along with an estimated and/or available saturation population function as the basis for an algorithm that defines the growth of the population to a maximum attainable level, all of which occurs after a transaction, and is information that can be presented to and

Art Unit: 3639

used by end-users as shown in col. 36, lines 17-24. Rebane also discloses that his system is used for planning and control in col. 4, lines 54-55, therefore, the information presented is used by end-users for planning and control after information retrieval/analysis takes place for an ecommerce transaction, which includes invitation of a consumer as disclosed above).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the invitation determination to be based on using the historical consumer information with the motivation of inviting a consumer to participate in a survey based on previous transaction information.

As per claim 12, Rebane discloses:

wherein the transaction information includes at least one of the category of the transaction and the payment amount of the transaction, and the code representing instruction to cause a processor to determine whether to solicit survey information from the consumer in the transaction includes using at least one of the category of the transaction and the payment amount of the transaction, , (Col. 8, lines 43-48, shows data can be evaluated according to categories of purchases).

As per claim 13, Rebane discloses:

wherein soliciting survey information includes transmitting a survey invitation to the consumer to the transaction, col. 12, lines 37-40, shows that a consumer making an online purchase of goods from a merchant's website may be invited to fill out a consumer satisfaction survey questionnaire following the transaction.

As per claim 14, Rebane discloses:

Art Unit: 3639

wherein the survey invitation includes a survey instrument, (Col. 9, lines 26-28, survey questionnaire accessed through a direct link or framed link on a merchant's web page).

As per claim 15, Rebane discloses:

wherein the transaction information includes a transaction record, the transaction record being in at least one of an electronic form and a digital form, and the code representing instructions to cause a processor to receive transaction information is configured to cause a processor to receive a set of transaction information regarding several transactions, (Col. 31, lines 13-24, shows that transaction data in terms of the level of sale transactions on a point-of-sale website comes from a database, since this information comes from a database, it is inherent that this data is in record format, and also in electronic, multiple-access form since dealing with a website).

As per claim 16, Rebane discloses:

a monitoring interface processing transaction information from the transaction, (Col. 24, lines 15-18, filter used for monitoring);

a processor configured to analyze said transaction record relative to stored consumer information, the processor further configured to determine whether to solicit survey information from the consumer to the transaction based at least partially on the transaction record and the stored consumer information/survey information (Col. 15, lines 47-48, processing modules, col. 12, lines 33-40, shows that a consumer making an online purchase of goods from a merchant's website may be invited to fill out a consumer satisfaction survey questionnaire following the transaction); and

Art Unit: 3639

a participant interface enabling the consumer to the transaction to provide survey information, (Col. 9, lines 26-28, shows survey presented to consumer through a link on a web page).

As per claim 17, Rebane discloses:

wherein the transaction record includes information relating to at least one of the category of the transaction and a payment amount of the transaction, and said processor determines whether to solicit survey information based on at least one of a category of the transaction and a payment amount of the transaction, (Col. 8, lines 43-48, shows data can be evaluated according to categories of purchases).

As per claim 18, Rebane discloses:

wherein the information relating to the consumer to the transaction includes an identification code for the consumer to the transaction, and the processor compares identification codes of consumers to transactions with predetermined identification codes of participants in the survey, (Col. 10, lines 45-50, shows that a survey questionnaire may include fields relating to a consumer's particular demographics, preferences, etc., also col. 30, line 66-col. 31, line 1, shows usage of cookies).

Rebane does not explicitly disclose that consumer information includes a consumer identification code, however, this limitation is obvious since Rebane shows that a customer may be invited to fill out a survey questionnaire through a merchant website via HTML, XML, Java Script, ActiveX, Applet, which in this case, a customer ID is needed in order to route the survey questionnaire to the proper customer who has web browser access.

Art Unit: 3639

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the customer information to include a consumer identification code with the motivation of having the means necessary to identify a consumer for proper survey questionnaire transmission purposes.

As per claim 19, Rebane discloses:

a merchant interface enabling a merchant to access analyzed survey information, (Col. 11, lines 25-27, shows data is received for online merchants, w/ col. 11, lines 41-46, shows that this merchant interacts with network interface).

As per claim 20, Rebane discloses:

wherein the stored consumer information is provided by a party to a transaction other than the merchant, , (Col. 8, line 64-Col. 9, line 9, intermediary data source).

As per claims 21-24, Rebane does not specifically disclose the following, however the following is obvious with Rebane since Rebane does disclose electronic commerce transactions in the abstract, lines 1-5, which traditionally involves financial institutions to further process the transaction :

Wherein the code representing instructions to cause a processor to receive transaction information is configured to receive the transaction information from a financial institution associated with the consumer/wherein the monitor is configured to receive the transaction information from a financial institution associated with the consumer/wherein the stored consumer information is provided by a financial institution associated with the consumer.

Art Unit: 3639

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to receive information from a financial institution with the motivation of providing means to complete processing for an electronic commerce transaction.

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rebane (US 6,711,581), and further in view of Kurland et al (US 4,603,232).

As per claim 11, Rebane does not explicitly disclose that consumer information includes a consumer identification code, however, this limitation is obvious since Rebane shows that a customer may be invited to fill out a survey questionnaire through a merchant website via HTML, XML, Java Script, ActiveX, Applet, which in this case, a customer ID is needed in order to route the survey questionnaire to the proper customer who has web browser access.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention for the customer information to include a consumer identification code with the motivation of having the means necessary to identify a consumer for proper survey questionnaire transmission purposes.

Rebane fails to disclose the following, however Kurland et al discloses:

and the historical consumer information includes at least one of the number of invitations sent to the consumer and the number of surveys completed by the consumer, (Col. 7, lines 24-37, [mail-out-count/quota]). Kurland discloses this limitation in an analogous art for the purpose of showing that the mail-out count of invites reaches a certain quota.

Art Unit: 3639

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to keep track of the number of invitations sent to the consumer and the number of surveys completed by the consumer with the motivation of determining the customers that need more attention.

### ***Response to Arguments***

5. Applicant's arguments with respect to claims 26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Art Unit: 3639

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

*QUB*

A. R. B.

January 24, 2006

*John W. Hayes*  
JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER